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CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

5 APR 1976

Mr. James M. Frey
Assistant Director for Legislative Reference
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Frey:

Enclosed are proposed reports on S. 1841 and H.R. 564, H.R. 2596, H.R. 5437, H.R. 5438, and H.R. 9002, bills to prohibit the use of the polygraph in an employment context by Federal agencies. We are submitting these reports to Chairman Eastland, Senate Committee on the Judiciary, and Chairman Rodino, House Committee on the Judiciary.

Advice is requested as to whether there is any objection to the submission of these reports from the standpoint of the Administration's program.

Sincerely,

SIGNED

George L. Cary
Legislative Counsel

Enclosures

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Honorable James O. Eastland, Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

S. 1841, which would bar Federal agencies from administering polygraph or similar examinations to employees or employment applicants, has been referred to the Committee on the Judiciary for consideration. I must strongly oppose this bill, as it would seriously impair the ability of the Director of Central Intelligence to fulfill his statutory charge to "protect intelligence sources and methods from unauthorized disclosure" (50 U.S.C. 403). An effective personnel security program is vital to assure this protection.

The Central Intelligence Agency uses polygraph testing as one of the final steps in the applicant security screening process. It is also used in our reinvestigation program, which is conducted at approximately five-year intervals in an employee's career. The purpose of the reinvestigation is to detect any hostile exploitation or subversion of "in-place" CIA employees. The polygraph examination during the reinvestigation is limited only to counterintelligence questions.

Statistics prove that the polygraph is an essential element of our security program. During the period 1963 through mid-1974, over 60 percent of applicants rejected on security grounds were rejected because of information developed principally or solely during polygraph interviews. In a sampling of recent records, 52 percent of applicants disapproved because of their polygraph interview had completed all other security screening and had been provisionally approved. In addition to this proven value, I believe the program is a significant deterrent to application for employment by unsuitable candidates, and, more importantly, penetration attempts by foreign intelligence services. Most polygraph interviews, however, are favorable; these serve to confirm other screening procedures or put to rest allegations or suspicions which otherwise could result in injustices or in unnecessary defensive measures.



We at CIA are aware of the possibilities of abuse of the polygraph program, and we have procedures in effect to forestall abuses and to protect the rights of those taking the examinations. These include:

- each applicant is notified of the intent to use the polygraph and must consent to the interview. Questions are reviewed with the applicant before testing;
- advance consultation with the Office of Personnel and the Office of Medical Services determine whether a polygraph is advisable;
- the applicant is notified of the privilege against self-incrimination if a question may pertain to a violation of the criminal law;
- all questions relate directly to security considerations as outlined in Executive Order 10450. No questions on religious thought or practices or political affiliation of a non-subversive nature are permitted;
- there is random monitoring by a specialized supervisor to insure that no improper questions are asked and the applicant is so informed;
- polygraph records are maintained in separate files with very strict need-to-know rules governing access;
- the polygraph examiner makes no recommendation as to the security suitability of the person tested;
- the standards for selection of polygraph operators are extremely high. Operators are given a rigorous training program;
- CIA maintains an active research program into new equipment and techniques to insure that the highest standards are maintained.

Spot interviews and occasional surveys have been conducted with applicants who have completed their polygraph tests to insure that the program adheres to established standards. In one such program, several thousand female applicants were interviewed after their polygraph examinations. Feedback from these interviews was utilized to guide polygraph procedures, but the program was finally dropped because of the incidence of adverse commentary was too low to justify its continuance.

In his 2 June 1975 statement accompanying the introduction of S. 1841, Senator Bayh expressed his willingness to consider the need for a limited use of the polygraph in the intelligence field. Former Senator Sam Ervin, a strong advocate of individual rights, recognized this need. In his proposed legislation to protect the personal privacy of Government employees, introduced during several Congresses prior to his retirement from public office, Senator Ervin expressly excepted the CIA and National Security Agency from the provisions barring the use of the polygraph in Government. The National Security Agency also collects and disseminates extremely sensitive foreign intelligence information, and that Agency has also found it necessary to use the polygraph as part of its security program. I believe the use of the polygraph by NSA is also fully justifiable, but I refer the Committee to NSA for the details of its program. If S. 1841 is reported to the Senate by the Judiciary Committee, I strongly urge the Committee to add the following amendment to proposed section 246 of Title 18:

"(d) This section shall not apply to the Central Intelligence Agency or the National Security Agency."

The Office of Management and Budget has advised there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

George Bush
Director

Honorable Peter W. Rodino, Chairman
Committee on the Judiciary
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Five bills which would bar Federal agencies from administering polygraph or similar examinations to employees or employment applicants, have been referred to the Committee on the Judiciary for consideration. These bills are H.R. 564, H.R. 2596, H.R. 5437, H.R. 5438, and H.R. 9002. I must strongly oppose these bills, as they would seriously impair the ability of the Director of Central Intelligence to fulfill his statutory charge to "protect intelligence sources and methods from unauthorized disclosure" (50 U.S.C. 403). An effective personnel security program is vital to assure this protection.

The Central Intelligence Agency uses polygraph testing as one of the final steps in the applicant security screening process. It is also used in our reinvestigation program, which is conducted at approximately five-year intervals in an employee's career. The purpose of the reinvestigation is to detect any hostile exploitation or subversion of "in-place" CIA employees. The polygraph examination during the reinvestigation is limited only to counterintelligence questions.

Statistics prove that the polygraph is an essential element of our security program. During the period 1963 through mid-1974, over 60 percent of applicants rejected on security grounds were rejected because of information developed principally or solely during polygraph interviews. In a sampling of recent records, 52 percent of applicants disapproved because of their polygraph interview had completed all other security screening and had been provisionally approved. In addition to this proven value, I believe the program is a significant deterrent to application for employment by unsuitable candidates, and, more importantly, penetration attempts by foreign intelligence services. Most polygraph interviews, however, are favorable; these serve to confirm other screening procedures or put to rest allegations or suspicions which otherwise could result in injustices or in unnecessary defensive measures.



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- advance consultation with the Office of Personnel and the Office of Medical Services determine whether a polygraph is advisable;
- the applicant is notified of the privilege against self-incrimination if a question may pertain to a violation of the criminal law;
- all questions relate directly to security considerations as outlined in Executive Order 10450. No questions on religious thought or practices or political affiliation of a non-subversive nature are permitted;
- there is random monitoring by a specialized supervisor to insure that no improper questions are asked and the applicant is so informed;
- polygraph records are maintained in separate files with very strict need-to-know rules governing access;
- the polygraph examiner makes no recommendation as to the security suitability of the person tested;
- the standards for selection of polygraph operators are extremely high. Operators are given a rigorous training program;
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Former Senator Sam Ervin, a strong advocate of individual rights, recognized the need for use of the polygraph by intelligence agencies. In his proposed legislation to protect the personal privacy of Government employees, introduced during several Congresses prior to his retirement from public office, Senator Ervin expressly excepted the CIA and National Security Agency from the provisions barring the use of the polygraph in Government. The National Security Agency also collects and disseminates extremely sensitive foreign intelligence information, and that Agency has also found it necessary to use the polygraph as part of its security program. I believe the use of the polygraph by NSA is also fully justifiable, but I refer the Committee to NSA for the details of its program. If any of these bills is reported to the House by the Judiciary Committee, I strongly urge the Committee to add the following amendment to proposed section 246 of Title 18:

"(d) This section shall not apply to the Central Intelligence Agency or the National Security Agency."

The Office of Management and Budget has advised there is no objection to the submission of this report from the standpoint of the Administration's program.

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George Bush
Director